

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

MATTHEW G. SILVA,

Plaintiff,

v.

WASHINGTON STATE  
DEPARTMENT OF  
CORRECTIONS, *et al.*,

Defendants.

NO. CV-08-5017-RHW

**ORDER DENYING PLAINTIFF'S  
MOTION TO VACATE  
DISMISSAL ORDER**

Before the Court is Plaintiff's Motion to Vacate Dismissal Order (Ct. Rec. 62). The motion was heard without oral argument.

Plaintiff asks the Court to vacate the order dismissing the above-captioned case, and to order the Department of Corrections to ship Plaintiff's legal property immediately. Plaintiff asserts that he filed a response to the Court's order to show cause. The letter was not filed in the Court record and the Court did not consider the letter in granting Defendants' Motion to Dismiss. Defendants provided the letter that was allegedly sent to the Court. In the letter Plaintiff asks for additional time to file a motion for reconsideration and response to Defendants' motion to dismiss. Even if the Court had received the letter, it would not have granted Plaintiff's request for a continuance, for the reasons stated in its August 5, 2009 Order.

1 In addition, Plaintiff appealed the dismissal of his case to the Ninth Circuit  
2 Court of Appeals. On December 10, 2009, the Circuit concluded that the appeal  
3 was so insubstantial as to not warrant further review.

4 Accordingly, **IT IS HEREBY ORDERED:**

5 1. Plaintiff's Motion to Vacate Dismissal Order (Ct. Rec. 62) is **DENIED**.  
6 **IT IS SO ORDERED.** The District Court Executive is directed to enter this  
7 Order, forward copies to Plaintiff and counsel, and **close the file**.

8 **DATED** this 22<sup>nd</sup> day of December, 2009.

9  
10 *s/Robert H. Whaley*

11 ROBERT H. WHALEY  
12 United States District Judge

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